IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.516 OF 2004

M/s.Prime Construction Pvt.Ltd. ..Appellant.

Vs.

The Assistant Commissioner of
Income Tax, Circle 5(9) ..Respondent

Mr.Vipul B.Joshi and Mr.Sameer G.Dalal for the Appellant.
Mr.R.D.Bhatt for the Respondent.

CORAM :- DR.S.RADHAKRISHNAN &
J.P.DEVADHAR,JJ.

DATE : 15TH JANUARY,2007

P.C.

1. Heard the learned Counsel for the parties. By this Appeal, the Appellant is challenging the order of the learned Income Tax Appellate Tribunal, Mumbai dated 24th October,2003. We have perused the said order. By this order, the Tribunal had declined to admit the Appeal on the ground that there is delay of 108 days in filing the above Appeal and the Appellant had failed to show any sufficient cause for condoning the said delay. It appears that the Petitioner's mother, who was aged about 82 years was suffering from various ailments like diabetics, hypertension, heart problem etc. and initially in March,2001 she was admitted to Harkishandas Hospital. However, subsequently it appears that the said lady was admitted in Jaslok Hospital for diabetic coma and her

health had started deteriorating which, ultimately led to her death on 29th September,2001.

2. Having regard to the facts and circumstances of the case and also in view of the fact that the Appellant's mother was seriously ill and had to be hospitalized in two different hospitals and the Appellant was under lot of stress, in the larger interest of justice, we feel that the Tribunal ought to have condoned the delay of 108 days in filing the above Appeal and decide the matter on merits. The above Appeal seems to have been filed on 17th October,2001.

3. Hence, the impugned order dated 24th October,2003 stands set aside and the delay of 108 days in filing the above Appeal is condoned. The Tribunal is directed to decide the aforesaid Appeal strictly on its own merits in accordance with law.

Accordingly, the Appeal stands disposed of.

(DR.S.RADHAKRISHNAN,J.)

(J.P.DEVADHAR,J.)